

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

IN RE:

December 4, 2002

**PETITION FOR APPROVAL OF
AMENDMENTS TO INTERCONNECTION
AGREEMENT BETWEEN BELL SOUTH
TELECOMMUNICATIONS, INC. AND
BIRCH TELECOM OF THE SOUTH, INC.**

DOCKET NO. 02-01109

**ORDER APPROVING
AMENDMENTS TO THE INTERCONNECTION AGREEMENT**

This matter came before Director Deborah Taylor Tate, Director Pat Miller, and Director Ron Jones of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on November 18, 2002 to consider, pursuant to 47 U.S.C. § 252, the Petition for approval of the fourth amendments to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Birch Telecom of the South, Inc.

The original interconnection agreement between these parties was filed on October 12, 2000 and was assigned Docket No. 00-00904. It was approved at a regularly scheduled Authority Conference on December 5, 2000. The first amendments were filed on January 19, 2001 under Docket No. 01-00074 and were approved at a regularly scheduled Authority Conference on March 20, 2001. The second amendment was filed on May 10, 2001 under Docket No. 01-00421 and was approved at a regularly scheduled Authority Conference on July 10, 2001. The third amendment was filed on September 16, 2002 under Docket No. 02-01013 and was approved at a regularly scheduled Authority Conference on October 21, 2002. The fourth amendments, which are the subject of this docket, were filed on October 3, 2002.

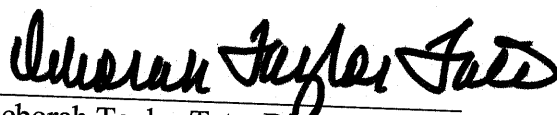
Based upon a review of the fourth amendments, the record in this matter, and the standards for review set forth in 47 U.S.C. § 252, the Directors unanimously granted the Petition and made the following findings and conclusions:

- 1) The Authority has jurisdiction over public utilities pursuant to Tenn. Code Ann. § 65-4-104.
- 2) The amendments are in the public interest as they provide consumers with alternative sources of telecommunications services within the BellSouth Telecommunications, Inc. service area.
- 3) The amendments are not discriminatory to telecommunications service providers that are not parties thereto.
- 4) 47 U.S.C. § 252(e)(2)(A) provides that a state commission may reject a negotiated agreement only if it “discriminates against a telecommunications carrier not a party to the agreement” or if the implementation of the agreement “is not consistent with the public interest, convenience or necessity.” Unlike arbitrated agreements, a state commission may not reject a negotiated agreement on the grounds that the agreement fails to meet the requirements of 47 U.S.C. §§ 251 or 252(d).¹ Thus, although the Authority finds that neither ground for rejection of a negotiated agreement exists, this finding should not be construed to mean that the amendments are consistent with §§ 251 or 252(d) or, for that matter, previous Authority decisions.
- 5) No person or entity has sought to intervene in this docket.
- 6) The amendments are reviewable by the Authority pursuant to 47 U.S.C. § 252 and Tenn. Code Ann. § 65-4-104.

¹ See 47 U.S.C. § 252(e)(2)(B)(Supp. 2001).

IT IS THEREFORE ORDERED THAT:

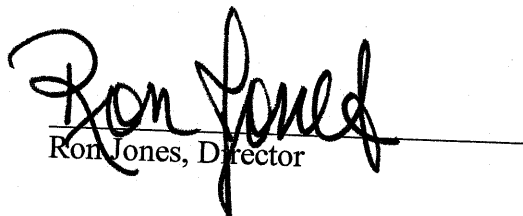
The Petition is granted, and the fourth amendments to the interconnection agreement negotiated between BellSouth Telecommunications, Inc. and Birch Telecom of the South, Inc. are approved and are subject to the review of the Authority as provided herein.



Deborah Taylor Tate, Director



Pat Miller, Director



Ron Jones, Director